

**October 12, 2010**  
**Regular Council Meeting**  
**MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD OCTOBER 12, 2010**

A Regular meeting of the City Council of the City of Hopewell, Virginia, was held Tuesday, October 12, 2010, at 6:30 PM in the City Council Chambers, Municipal Building, 300 North Main Street, Hopewell, Virginia.

PRESENT:                   Christina J. Luman-Bailey, Mayor  
                                  K. Wayne Walton, Vice Mayor  
                                  Curtis W. Harris, Councilor  
                                  Michael C. Bujakowski, Councilor  
                                  Gerald S. Stokes, Councilor  
                                  Brenda S. Pelham, Councilor  
                                  Jackie M. Shornak, Councilor  
  
                                  Edwin C. Daley, City Manager  
                                  Thomas E. Lacheney, City Attorney  
                                  Ann M. Romano, City Clerk

**CLOSED SESSION**

**Motion** was made by Councilor Bujakowski, and seconded by Councilor Shornak, to convene into Closed Session to discuss Legal Matters (Litigation and Potential Litigation), as permitted by Virginia Code § 2.2-3711 (A) (2) Economic Development, as permitted by Virginia Code § 2.2-3711 (A) (7); Personnel Matters (City Manager), as permitted by Virginia Code § 2.2-3711 (A) (7); and, Appointments to Boards and Commissions, as permitted by Virginia Code § 2.2-3711 (A) (1). Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes
Councilor Harris	-	ABSENT (arrived at 6:40)
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes

**OPEN SESSION**

At 7:40 PM Council convened into Open Session. Councilors responded to the question: "Were the only matters discussed in the Closed Meeting public business matters lawfully exempted from open meeting requirements; and public business matters identified in the motion to convene into Closed Session?" Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes
Councilor Harris	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes

**REGULAR MEETING**

Mayor Luman-Bailey opened the regular meeting at 7:41 PM. Roll call was taken as follows:

Mayor Luman-Bailey	-	yes
Vice Mayor Walton	-	yes
Councilor Harris	-	yes

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Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Councilor Pelham	-	yes
Councilor Shornak	-	yes

Prayer was offered by Herbert Bragg, PIO/PAC, followed by the Pledge of Allegiance to the Flag of the United States of America.

As a courtesy to the audience, Mayor Luman-Bailey announced that appointments will be made to the Planning Commission and the Board of Architectural Review. All other appointments will be made on November 9, 2010.

**CONSENT AGENDA**

**Motion** was made by Councilor Pelham, seconded by Councilor Harris, and unanimously passed to approve the Consent Agenda: Minutes: - WS 8/31/10, Regular Meeting 9/14/10, and WS 9/21/10; Pending List; Information for Council Review: School Board minutes 8/12/10, notice 10/6/10; HRHA notice, minutes 7/12/10 & agenda 9/13/10; Social Services Advisory Board minutes 5/3/10; HRWTF Commission notice, attachments, & agenda 9/20/10, & minutes 7/26/10; Senior Citizens Advisory Commission minutes 6/15/10; District 19 CSB minutes 5/27/10 & 6/25/10; TSB meeting cancellation; Recreation Commission minutes 9/8/10 & agenda 10/13/10; Personnel Change Report & Financial Report; Public Hearings Announcements: None; Routine Approval of Work Sessions: Joint WS w/School Board, October 26, 2010 at HHS; Ordinances on second and final reading: Ord. #2010-22-Repealing Chapter 23 of the Hopewell City Code and reenacting Chapter 23, Noise; Routine Grant Approval: None; Proclamations/Resolutions/Presentations: Social Services Advisory Board - Service Awards - Margie Hayes and Shirley Kennedy; Presentation of Presidents Award from Virginia Recreation and Parks Society, for outstanding work on the LTI Board – Brad Flynn; Proclamation – Customer Service Week; and Proclamation – Customer Service Week.

Mayor Luman-Bailey and Nancy Treanor, Director of the Hopewell Department of Social Services, presented Service Awards to Margie Hayes (9 years) and Shirley Kennedy (12 years) for their terms on the Social Services Advisory Board.

Mayor Luman-Bailey presented to Brad Flynn, the President's Award from the Virginia Recreation and Parks Society, for outstanding work on the LTI Board.

Mayor Luman-Bailey presented to Debbie Pershing, Senior Executive Assistant to the City Manager, a proclamation in recognition of Customer Service Week, October 4-8, 2010.

**PROCLAMATION**

**WHEREAS**, customer service is an ever-changing process that is a critical part of the success of any organization, especially local government; and

**WHEREAS**, the City of Hopewell is continually attempting to ensure that customer service remains an integral part of our employees' daily lives; and

**WHEREAS**, the City's customer service initiatives focus on communication, education, training, and recognition; and

**WHEREAS**, each City employee and City agency needs to continue to promote excellence in customer service.

**NOW, THEREFORE, BE IT PROCLAIMED** that I, Christina J. Luman-Bailey, Mayor, and the City Council of the City of Hopewell, Virginia hereby recognize the week of October 4-8, 2010 as

**Customer Service Week**

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and salutes and thanks each and every City employee for the quality of service so willingly given to both the internal and external customers

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the City of Hopewell in the Commonwealth of Virginia this 12<sup>th</sup> day of October 2010.

*/s/ Christina J. Luman-Bailey, Mayor -- City of Hopewell, Virginia*

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**ORDINANCE NO. 2010-22**

An Ordinance repealing Chapter 23 of the Code of the City of Hopewell and reenacting Chapter 23, NOISE.

**WHEREAS**, the City of Hopewell has prohibited loud and disturbing noise within the City for many years; and

**WHEREAS**, the City Council has previously found, and hereby so finds again, that the peace, tranquility, and the health and life of all residents of the City is adversely affected by loud and disturbing noises; and

**WHEREAS**, the City Council has determined that it is desirable to implement additional restrictions on loud and disturbing noises;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL** that Chapter 23 of the Code of the City of Hopewell is hereby repealed and the following provisions be reenacted as Chapter 23:

**SECTION 23-1. Declaration of Findings and Policy.**

The City Council hereby finds and declares that excessive sound is a serious hazard to the public health, welfare, peace, safety, and the quality of life; that a substantial body of science and technology exists by which excessive sound may be substantially abated; that the people have a right to and should be ensured an environment free from excessive sound that may jeopardize the public health, welfare, peace, and safety or degrade the quality of life; and that it is the policy of the City of Hopewell to prevent such excessive sound.

**SECTION 23-2. Administration and Enforcement.**

(a) The noise control program established by this Chapter shall be enforced and administered by the chief of police and/or his designees, with the assistance of other city departments as required.

(b) An individual complainant may appear before a magistrate and request a summons to be issued.

**SECTION 23-3. Definitions.**

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

(a) *A-weighted decibel*. The sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in the ANSI S1.4-1983 (specification for sound level meters). The level so read shall be postscripted dB(A) or dBA.

(b) *Commercial purpose*. The use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business or any services, or for the purpose of attracting the attention of the public

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to, or advertising for, or soliciting patronage or customers to or for any performance, show, entertainment, exhibition or event, or for the purpose of demonstrating any such sound equipment.

(c) *Daytime.* The local time of day between the hours of 7:00 A.M. and 11:00 P.M.

(d) *Decibel.* A unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is 20 times the logarithm to the base ten of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; abbreviated dB.

(e) *Emergency.* Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

(f) *Emergency work.* Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(g) *Gross vehicle weight rating (GVWR).* The value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

(h) *Motor carrier vehicle engaged in interstate commerce.* Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

(i) *Motorcycle.* Any motor vehicle designed to travel on not more than three wheels in contact with the ground and any four-wheeled vehicle weighing less than five hundred pounds and equipped with an engine of less than six horsepower, excepting farm tractors.

(j) *Motor vehicle.* Any self-propelled device or device designed for self-propulsion upon or by which any person or property is, or may be, drawn or transported upon a street or highway, except devices moved by human power or used exclusively upon stationary wheels or tracks.

(k) *Nighttime.* The local time between the hours of 11:00 P.M. and 7:00 A.M.

(l) *Noise.* Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

(m) *Noise disturbance.* Any sound which:

- (1) Endangers or injures the safety or health of humans; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property; or
- (4) Exceeds the applicable maximum permissible sound levels as they appear in the table in section 23-4.

(n) *Property.* The smallest real estate owned or leased by the same person or persons.

(o) *Property line.* An imaginary line along the ground surface, and its vertical extension, which separates the real property, including the dwelling units within a structure owned by one person, from that owned or leased by another person.

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(p) *Residential zone.* Any location within any of the residential, mixed use, planned unit development districts as shown on the city zoning map or as defined in the zoning ordinance of the City of Hopewell.

(q) *Sound.* An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound including duration, intensity, and frequency.

(r) *Sound level.* The weighted sound pressure level obtained by the use of a sound level meter and the A-frequency weighting network, as specified in American National Standards Institute specifications for sound level meters.

(s) *Sound level meter.* An instrument to measure sound pressure levels that meets or exceeds performance standards for a Type 2 meter as specified by the ANSI.

**SECTION 23-4. Maximum Permissible Sound Levels Generally.**

(a) Except as otherwise provided, any noise which emanates from any operation, activity or source and which exceeds the maximum permissible sound levels established in this section below is hereby prohibited. Such levels shall be measured at the property line of the property from which the sound source emanates, or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one zoning district classification, the limits of the most restrictive classification shall apply.

**MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS**

*TABLE INSET:*

Zoning District Classification	Maximum dBA Daytime	Maximum dBA Nighttime
Residential	60	55
Mixed Use District	60	55
Commercial	65	60
Office	65	60
Industrial	79	72

(b) Heating and cooling systems, including but not limited to air conditioners and heat pumps, shall not be subject to the maximum levels enumerated above.

(c) Any person, with lawfully obtained permits, who during daytime, causes to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors in any residential district within 100 yards of a lawfully occupied dwelling shall not be subject to the levels enumerated above.

**SECTION 23-5. Testing of Metering Devices.**

In order to implement and enforce this Chapter effectively, the chief of police shall, within a reasonable time after the effective date of same, develop and promulgate standards and procedures for testing and validating sound level meters used in enforcement of this Chapter.

**SECTION 23-6. Motor Vehicle Maximum Sound Levels.**

(a) No person shall operate or cause to be operated a public or private motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle when measured at a distance of fifty feet or more exceeds the level set forth in the following table:

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	Sound Level in dBA	
	Speed Limit 35 M.P.H. or less	Speed Limit Over 35 M.P.H.
All motor vehicles of GVWR or GCWR of 6,000 lbs. or more	86	90
Any motorcycle	82	76
Any other motor vehicle or any combination of vehicles towed by any motor vehicle	76	82

(b) The foregoing provision shall not apply to any motor carrier vehicle engaged in interstate commerce.

**SECTION 23-7. Measurement Procedures.**

The measurement of sound or noise pursuant to this Chapter shall be as follows:

(a) The measurement of sound or noise shall be made with sound level meters Type 1 or Type 2 which meet the standards prescribed by the ANSI. The instruments shall be maintained in calibration and good working order. A calibration shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. A minimum of three sound level readings will be taken. The geometric mean of these readings will be used as the average sound level. If the background noise is equal to the levels set forth in section 23-8 above, three dB shall be subtracted out of the average sound level.

(b) The slow meter response of the sound level meter shall be used to determine that the average amplitude has not exceeded the dBA readings or the limiting noise spectra set forth in section 23-8 above.

(c) Unless otherwise specified, the measurement shall be made at the property boundary on which such noise is generated, or at any point within the receiving property affected by the noise.

**SECTION 23-8. Specific Loud Noises Prohibited.**

In addition to the prohibitions listed in the preceding sections, it shall be unlawful for any person to cause, or permit to be caused, any of the following prohibited sounds or noises:

(a) To use, operate or play any radio, phonograph, television, record, compact disc, tape player, musical instrument, loudspeaker, sound amplifier, digital music device, DVD player, MP3 player, or any other machine or device capable of producing or reproducing sound in such a manner, or with such volume, that it is plainly audible at Nighttime:

- (1) inside the confines of the dwelling unit, house, condominium, or apartment of another person; or
- (2) at a distance of 50 feet, or more from the device, except for devices properly authorized and permitted to be used at public parks, recreation fields, sporting events, school-sponsored activities on school grounds, or duly authorized parades, public functions or commemorative events.

(b) To cause or allow noise at Nighttime that is generated, caused, or created by a gathering of six (6) or more people where said noise:

- (1) is plainly audible inside the confines of the dwelling unit, house, condominium, or

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apartment of another person; or

(2) is plainly audible at a distance of 50 feet, or more from the noise.

(c) To play or permit the playing of any radio, stereo, tape player, compact disc player, MP3 player, digital music player, loud speaker or other electronic device or mechanical equipment used for the amplification of sound, which is located within a motor vehicle and which is plainly audible from outside the motor vehicle at a distance of 50 feet or more from the vehicle.

This provision shall also not apply to the playing of music or jingles by an ice cream truck or similar mobile food-service vehicle, provided such vehicle may emit sounds otherwise prohibited by this subsection only between the hours of 8:00 a.m. and 9:00 p.m.

(d) To allow any animal or bird to create any noise or sound that it is plainly audible at least once a minute for ten (10) consecutive minutes (i) inside the confines of the dwelling unit, house, condominium, or apartment of another; or (ii) at 75 or more feet from the animal or bird; or

To allow a dog to bark for more than ten (10) times per minute for five (5) consecutive minutes, where said dog's bark is plainly audible (i) inside the confines of the dwelling unit, house, condominium, or apartment of another; or (ii) at 75 or more feet from the dog.

(e) To create any plainly audible sound or noise in residential areas between 10:00 p.m. and 6:00 a.m. in connection with the loading or unloading of refuse, waste or recycling collection vehicles.

(f) To create any plainly audible sound or noise in residential areas between 10:00 p.m. and 6:00 a.m. in connection with the construction or demolition of any building, structure, or parking lot.

(g) To create any plainly audible sound or noise in residential areas between 10:00 p.m. and 7:00 a.m. in connection with lawn care, leaf removal, gardening, tree maintenance or removal and other landscaping, lawn or timbering activities.

(h) To sound any car or truck horn at Nighttime where said horn:

(1) is plainly audible inside the confines of the dwelling unit, house, condominium, or apartment of another person; or

(2) is plainly audible at a distance of 50 feet, or more from the noise.

This provision shall not apply to horns that are sounded in case of an emergency or to provide a warning to other motor vehicles.

**SECTION 23-9. Exemptions.**

The prohibitions contained in this Chapter 23 shall not apply to any sound or noise generated by any of the following:

(a) Sound or noise which is necessary for the protection or preservation of property or the health, safety, life or limb of any person, including sound or noise caused by restoration of utility service after an interruption.

(b) Sound or noise which is necessary for the maintenance or construction of roads and highways.

(c) Radios, sirens, horns and bells on police, fire or other emergency response vehicles.

(d) Parades, fireworks displays, and other organized public activities authorized by permit issued by an

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official of the City.

- (e) Band performances or practices, athletic contests or practices and other school-sponsored activities on the grounds of public or private schools, colleges or universities.
- (f) Athletic contests and activities, and other officially-sanctioned activities in city parks.
- (g) Fire alarms, burglar alarms and car alarms, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises or vehicle served by any such alarm to turn off the alarm.
- (h) Military activities of the state or of the United States of America.
- (i) Political gatherings and other activities protected by the First Amendment to the United States Constitution.

**SECTION 23-10. Penalties.**

(a) A first or second violation of this ordinance shall be deemed a Class 3 misdemeanor which shall be punished by a fine of not less than \$100.00, nor more than \$250.00 for a first offense, and not less than \$200.00, nor more than \$500.00 for a second offense.

Any person convicted of a violation of this ordinance within less than three (3) years after conviction of a second or subsequent offense under this article, shall be guilty of Class 2 misdemeanor which shall be punished by a fine not less than \$250.00 nor more than \$1,000.00.

Any person convicted of a violation of this ordinance within less than three (3) years after conviction of a third or subsequent offense under this article, shall be guilty of Class 1 misdemeanor which shall be punished by a fine not less than \$500.00 nor more than \$2,000.00.

- (b) Each day a violation continues unabated shall constitute a separate offense.
- (c) Criminal enforcement against a person violating this article shall not be a bar against, or a prerequisite for, taking any other action permitted by this Code or the Code of Virginia to abate the violation.
- (d) The imposition of a penalty for any violation shall not excuse the violation or permit it to continue.
- (e) Any noise that violates both section 23-4 and section 23-8 shall be treated as a single offense for purposes of assessing a penalty.

**PUBLIC HEARING – PROPOSED ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY IN THE ESTIMATED MAXIMUM AMOUNT OF \$7,700,000 TO FINANCE IMPROVEMENTS TO THE CITY’S SCHOOL SYSTEM, INCLUDING RENOVATIONS TO HOPEWELL HIGH SCHOOL**

This was the night advertised as a Public Hearing to receive citizen comments regarding the proposed issuance of General Obligation Bonds of the City of Hopewell in the estimated maximum amount of \$7,700,000 to finance improvements to the City’s school system, including renovations to Hopewell High School.

At the Work Session held on August 31, 2010, Mr. Jimmie Sanderson of Davenport and Company reported on the HHS Financing Schedule. The financed \$5 million of future School needs with the issuance of its 2009A General Obligation Bonds. The City was approved for and issued \$2.8 million of Qualified Zone Academy Bonds (“QZAB”) in December 2009. Additionally, the Commonwealth recently sold \$7,635,000 of Qualified School Construction Bonds (“QSABs”), generating \$7,500,000 of construction proceeds for the City of Hopewell. Additional School Capital Improvements of potentially \$7.7 million may be necessary to finance the balance of the \$23 million HHS project.



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The Mayor opened the Public Hearing at 7:48 PM. There being no speakers, the Public Hearing was closed.

**Motion** was made by Vice Mayor Walton, and seconded by Councilor Harris, to resolve to approve Ordinance No. 2010-24, on first reading, and to adopt a Resolution providing for the Issuance and Sale of General Obligation Public Improvement Bonds of the City of Hopewell Virginia, in the Maximum aggregate principal amount of \$7,700,000, providing for the form, details and payment thereof. Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes
Councilor Harris	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes (submitted Transactional Disclosure Statement on 10/12/10 as an employee of the School Board.)

**PUBLIC HEARING – TO CONSIDER AN AMENDMENT TO ARTICLE XVIII-A-17, TRAILERS, OF THE ZONING ORDINANCE**

In late 2009, by requests of the Hopewell City Council, the Planning Commission began its review of Article XVIII-A-17, Trailers, of the Hopewell Zoning Ordinance. At the February 4, 2010 work session the Planning Commission completed its review of the Article recommending several changes.

A copy of the draft amendment was forwarded to the City Manager in February of 2010 and Council held a work session to discuss the amendment on April 23, 2010. After the Council work session the amendment was reviewed by several departments and committees, to include: The Transportation Safety Board, the Department of Public Work – Office of the City Engineer, Hopewell Superintendent of Schools, Assistant Superintendent for Administration of Hopewell Public Schools, Transportation Division Manager for Hopewell Public Schools, the Hopewell Chief of Police, Hopewell Police Officers, and the City Manager.

The Planning Commission conducted a public hearing on the proposed zoning ordinance at its September 2, 2010 meeting and on a 4-0 vote, with one absence, recommended approval of the ordinance to City Council.

Mayor Luman-Bailey opened the Public Hearing.

Robert Pershing, 901 Smithfield Avenue, Hopewell, spoke in opposition to the proposed ordinance, indicating that it would be costly to owners of oversized vehicles. Some citizens may consider housing their boats in another community and thereby paying personal property taxes outside of Hopewell.

There being no (additional) speakers, the public hearing was closed.

**Motion** was made by Councilor Harris, and seconded by Councilor Pelham, to refer back to the Planning Commission, Oversized Vehicles Amendment to Article XVIII-A-17, Trailers, of the Zoning Ordinance.

**DISCUSSION:** The proposed ordinance builds from the existing Code Section. Some similar issues were raised a few years ago. The City has been dealing with this for quite some time. Oversized vehicles may be parked on private property in the yard. This will allow parking of motor coaches for 48 consecutive hours to load and unload. In addition, the Planning Commission is considering restriction of school bus parking; they cannot be parked in the front yard, side yard, or the street. The proposed ordinance introduces definitions, and the amendments will build upon what we already have. There was a suggestion to extend the 48-hour handicapped parking to 72 hours, and for the City to continue to allow a school bus to park on City property on Sherwood Lane. Boats must have motors. In some areas of the City streets are very narrow. Public safety vehicles must be able to get through the street. A canoe rack would be considered one item. The next Planning Commission meeting will be on the first Thursday of November (November 4). State law requires advertising twice before the public hearing. The City Council public

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hearing ads will be published prior to the Planning Commission meeting. The Planning Commission should do whatever necessary to deal with this issue as soon as possible.

The motion was unanimously passed.

**PUBLIC HEARING – REQUEST TO VACATE A PORTION OF THE RIGHT-OF-WAY KNOWN AS THE HOPEWELL STREET ALLEY BETWEEN EAST BROADWAY AND EAST CAWSON STREET**

The City of Hopewell submitted a request to vacate 2,000 square feet of right-of-way identified as the Hopewell Street alley located between East Broadway and East Cawson Street in the 300 block of East Broadway for the purpose of consolidating the right-of-way with the adjoining lots as part of the construction of the Human Services Building. On behalf of the City of Hopewell, City Administration submitted a request to vacate the subject right-of-way. The request is necessary to consolidate the properties involved in the construction of the Human Services Building and create the development lot at the corner of East Broadway and Hopewell Street. The alley in question is located between Lots 1-8, and 37-44, Block 9, West City Point Subdivision.

Mayor Luman-Bailey opened the Public Hearing at 8:12 PM. There being no speakers the Public Hearing was closed.

**Motion** was made by Councilor Bujakowski, and seconded by Councilor Pelham, to resolve to approve the request by the City of Hopewell to vacate Hopewell Street alley located between Lots 1 thru 8 & 37 thru 44, Block 9, West City Point Subdivision, as it will not impede future development or redevelopment. Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes
Councilor Harris	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes

**COMMUNICATIONS FROM CITIZENS**

Mr. Phil Elliott, Director of Public Works, addressed City Council concerning the Landfill Review Public Meeting. The meeting is being conducted to discuss the most recent “Assessment of Corrective Measures report (ACM).” The sampling results and the meaning of the groundwater Protection Standard (GPS) exceedence at the City of Hopewell Sanitary Landfill (Permit No. 201) will be discussed. Benzene was first detected at levels exceeding GPS during the August 2005 sampling event. Since August 2008, the levels of detected benzene have been below established GPS. Cobalt has been consistently detected in groundwater at levels that did not exceed GPS in effect at the time groundwater samples were taken. However, in January 2009 DEQ implemented a much lower threshold GPS for Cobalt, which when implemented now results in the landfill being noncompliant with GPS for Cobalt.

The public hearing will be on Monday, October 18, 2010 at 5:30 PM in the second floor Quiet Room of the Appomattox Regional Library.

**DISCUSSION:** The notice of public hearing was published in the Friday, October 8 edition of the Hopewell News. The question arose of how that got into the Hopewell News without the City Council or City Manager knowing about it. The consultant (Joyce Engineering, Inc.) had been providing information since October 1. John Fountain, Administrative Services Manager in the Public Works Department, indicated that the information was contained in the City Manager’s Newsletters dated October 1, and October 8, 2010. The landfill was developed in 1976 and closed in 1993. Councilor Harris was opposed to building the landfill at its present location because of potential catastrophic incidents.

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There being no other speakers, Communications from Citizens were closed.

**CITIZEN/COUNCILOR REQUEST – COUNCILOR HARRIS – REQUESTED THAT OSAGE/APPOMATTOX BIO-ENERGY ATTEND COUNCIL MEETING TO EXPLAIN TO THE COMMUNITY WHAT HAPPENED ON SEPTEMBER 8, 2010 AT ITS SITE**

Appomattox Bio Energy, LLC (ABE) [Osage] – Control equipment malfunction event on September 8, 2010 at approximately midnight, a spontaneous uncontrolled combustion event occurred in the facility's regenerative thermal oxidizer (RTO) due to volatile organic compounds (VOCs) in the distillation scrubber exhaust, which is routed to the RTO. Osage facility personnel reported the incident to the Director of the Piedmont Region of the Virginia Department of Environmental Quality (DEQ) by phone and e-mail on the morning of September 9, within four daytime business hours of the initial malfunction, as required under Condition 44 of ABE's Stationary Source Permit.

Mayor Luman-Bailey introduced the issue. She indicated that she and Councilor Harris had several conversations related to this subject. Council had in its agenda packets a letter from Osage about the incident that occurred on September 8, 2010. Other incidents this year were at Evonik and Honeywell. Citizens could benefit from an annual report from the HCIP (Hopewell Community and Industry Panel). Citizens should be kept informed of the details. Mayor Luman-Bailey requested that at the November or December 2010 Council meeting, having a report from the HCIP on any incidents occurring in the last 18-24 months.

Councilor Harris had spoken with the Mayor several times. Mayor Luman-Bailey decided to fix the matter before he had the opportunity to speak at the Council meeting. (Mayor Luman-Bailey stated that she did not try to fix the matter.) Councilor Harris shared that that is not the way to do business. When he has something on the agenda, he should have the opportunity to address it. The Mayor should not preface it. He made several attempts to speak with someone at Osage to invite them to attend the Council meeting to discuss the matter. He tried to have a representative from Osage at the Ward meeting he held recently at Carter G. Woodson Middle School. Today he was able to speak with the plant manager. He said they are in an investigation that will be finished in November. Councilor Harris asked him if he would come to the Council meeting in November to address citizens, and the plant manager indicated that he would. He said that he would send a copy of the results of the investigation to the City Manager and then share that copy with Councilor Harris. He has trouble allowing people to run over the City of Hopewell. He is watching the City of Hopewell losing their grip in many instances. On September 8, 2010, there was an explosion that rocked houses in Hopewell. No one knew what really happened. There have been speculations. Councilor Harris does not want to be pre-empted by anyone – including the Mayor. He was appalled and asked all members of Council to excuse him because he was leaving the meeting to go home.

**CITIZEN/COUNCILOR REQUEST – VICE MAYOR WALTON – FISHING AT THE HOPEWELL MARINA**

Vice Mayor Walton voiced constituents' concerns with new no fishing signs at the Hopewell marina. Vice Mayor Walton received requests from members of the community. He thanked Jo Turek, Director of Recreation and Parks and her staff for the solution. It is important to have access to the river. He hoped that citizens are now able to enjoy fishing at the marina again.

**CITIZEN/COUNCILOR REQUEST – THE NEIGHBORHOOD NETWORK – PRESENTATION**

Joyce Pritchard made the presentation. The Hopewell VA Networks is a website that serves to communicate the activities and upcoming volunteer opportunities to everyone who would like to be involved in positive, community-based activities that support the improvement of Hopewell, Virginia.

The Neighborhood Network applies a measurement-based approach to improve the appearance of our neighborhoods. **Vision:** Neighborhoods: where residents are proud when visitors or tourists drive through our neighborhood; where all structures meet the basic minimum standards, particularly investment properties; that remains affordable, while maintaining their uniqueness, historical character and cultural and economic diversity; and where neighbors band together in community-building activities which, in working in partnership with the City

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of Hopewell, maintain and improve the physical appearance, health, safety and welfare of all citizens. **Mission:** Introduction of measurement-based citizen-leg neighborhood improvement activities that reduce citizen frustration in working with the City of Hopewell to increase community-building activities, maintain and improve the appearance of their neighborhoods, and preserve its unique historic features. **Strategy:** To conduct pilot projects in B-village and City Point neighborhoods of Hopewell to develop a citizen-led, measurement-based approach to reduce the number of observable problems in the neighborhood that affect its quality, appearance and livability. To document the methods developed in the pilot in a "Citizen's handbook" so that it can be used for implementation of the method in additional neighborhoods in Hopewell. **Principles:** To conduct all activities so that they build community among participants; To partner with applicable City of Hopewell departments in the effort; To maintain respect for the diversity of neighborhood residents; and To utilize measurements in the way that maintains appropriate privacy of individuals.

Hopewell was once called the Garden City. The DuPont Company sponsored the Village Beautiful Program. This past summer there was a home gardening initiative and 600 tomato seeds were planted. They plan to try it in another neighborhood. They received a CDBG Grant for FY 2010/2011 to produce a Citizens Guide. They want to encourage citizens to contact the right department. Citizens need to learn about the city's process, and to receive department feedback to citizens. Ms. Pritchard asked for Council review of the document. The Arlington Heights area is the next neighborhood to be targeted. On Saturday, October 16 there will be a free plant exchange in the park, then review by those participants of this document. It will become available on the website eventually.

Mayor Luman-Bailey thanked Ms. Pritchard, as did members of Council, for her efforts on this project. She was wished well with her relocation to Colorado.

**CITIZEN/COUNCILOR REQUEST – COUNCILOR SHORNAK – CLEAN-UP EFFORT FOR WOODLAWN LEARNING CENTER**

Councilor Shornak had heard about one issue in particular from many citizens, which is the need to clean up the City. She encouraged citizens, civic associations, businesses, City employees, to volunteer their time and services to rebuild and revitalize neighborhoods, schools and parks. She wants to begin the effort with schools, starting with a Cleanup at the Woodlawn Learning Center, 1100 Dinwiddie Avenue, Hopewell, on Saturday, November 20, 2010, 8:00 AM till ?. She met on September 21 to discuss this issue with Dr. Odom, Ms. Piercey (principal), and Herbert Bragg, PAC. In the Spring of 2011 Councilor Shornak would like to have a Ward #7 Clean up. Citizens must take pride in our city. A flyer will come out soon. She plans to get businesses and manufacturers in Hopewell to contribute to this cause. Work will be on the outside of the school. One of the school's wish list items was 126 pre-school (Virginia Pre-School Initiative Program) t-shirt for the students to wear on field trips. That program is not covered under Head Start. Councilor Shornak will be e-mailing, calling and getting media involvement. Donations are welcomed.

**REGULAR BUSINESS – REQUEST TO SUBDIVIDE 5.8 ACRES OF LAND TO FORM ANCHOR POINT SECTION E**

The City of Hopewell received a request from Bay Design Group, on behalf of MPD Ventures, LLC, to subdivide 5.8 acres of land of Parcel B of the Anchor Point Subdivision into 21 single-family dwelling lots to form Anchor Point, Section E.

The Hopewell Planning Commission reviewed the request at its August 5, 2010 meeting and has recommended approval of the request to City Council. City Council approved an amendment to the Plan of Development (POD) with proffered conditions at the April 25, 2006 Council meeting. The amended POD included 53 single-family detached dwellings, 155 townhouse units, and four (4) additional high-rise condominium buildings. The request to subdivide Parcel B to form Section E is consistent with the approved POD.

**Motion** was made by Councilor Stokes, and seconded by Vice Mayor Walton, to resolve to approve the request to subdivide 5.8 acres of land to form Anchor Point, Section E. Upon the roll call, the vote resulted:

Councilor Shornak       -       yes

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Mayor Luman- Bailey	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	out of the room

**REGULAR BUSINESS – REQUEST FROM THE CLEAN CITY COMMISSION TO HOLD FALL 2010 CLEAN-UP WEEK**

The Clean City Commission voted to hold Fall 2010 Clean-Up Week from Saturday, October 16, 2010 through Saturday, October 23, 2010. The Department of Public Works agreed with the proposed schedule. The Commission has recommended that the fees normally charged at the citizen's Convenience Center be waived, except for cost of Freon removal from appliances. The Citizen's Convenience Center hours of operation will be 12:30 PM – 5:00 PM, Monday-Friday, and 8:00 AM – 5:00 PM on Saturdays. The Clean City Commission has agreed to reimburse the Department of Public Works up to a maximum of \$250.00 to help cover the cost of the Fall Clean-Up Week. There is no fiscal impact to the City. Funds are being used from the Virginia Department of Environmental Quality Litter Prevention and Recycling Grant administered by the Hopewell Department of development and funds from the Department of Public Works. Clean ups such as the spring and fall clean up weeks are mandatory events required by the State of Virginia.

**Motion** was made by Vice Mayor Walton, seconded by Councilor Bujakowski, and passed unanimously to approve the Clean City Commission's recommendation for Fall Clean Up Week October 16-23, 2010, with Funding from the Virginia Department of Environmental Quality through the Litter Prevention and Recycling Grant administered by the Department of Development.

**REGULAR BUSINESS – 2010/2011 CHALLENGE GRANT – VIRGINIA COMMISSION FOR THE ARTS**

The Historic Hopewell Foundation (HHF) is seeking a Challenge Grant from the State Commission for the Arts, which must be applied for as City dollars are used for the match. HHF has requested to maintain the grant amount of \$4,000 as the City's match. The grant will enable HHF to conduct art and art-related programs at Weston Manor due to expanding their programming. The grant was awarded in the amount of \$8,000. The City will file for the grant, under the same conditions as in previous years:

1. The grant will not be accepted unless City's FY 09-10 adopted budget includes the matching funds; HHF would like to give the City of Hopewell the match.
2. Filing the grant application in no way binds the City to budget matching funds.
3. Should the grant request be denied or only partially funded, the City would still make available to HHF for art and art-related programs whatever local funds have been allowed in the City's FY 09-10 General Fund Budget. The City did not place funding in the budget.

**Motion** was made by Councilor Bujakowski, seconded by Councilor Pelham, and unanimously passed to appropriate the donation and the matching amount from the State.

**REGULAR BUSINESS – BUDGET RESOLUTION AMENDMENT FY 2010-2011**

An amended budget of fund encumbrances at June 30, 2010 and budget reductions for FY 2010-2011 was introduced to City Council in its complete form of which \$86,115 is to be re-appropriated for encumbrances and \$933,200 in adjustments are to be made for the FY 2010-2011 budget. Sufficient funds exist in the respective fund balance reserve accounts for encumbrances and revenue estimates are forecasted to decline.

**Motion** was made by Councilor Pelham, and seconded by Councilor Bujakowski, to adopt the Budget Resolution Amendment FY 2010-2011 in its complete form of which \$86,115 is to be re-appropriated for encumbrances and \$933,200 in adjustments are to be made for the FY 2010-2011 budget.

Councilor Pelham asked the City Attorney if it she was required to file a Transactional Disclosure Statement as an employee of the Hopewell School System, but he indicated that it was not necessary.

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Upon the roll call, the vote resulted:

Councilor Shornak	-	yes	
Mayor Luman- Bailey	-	yes	
Councilor Bujakowski	-	yes	
Councilor Stokes	-	yes	(filed a Transactional Disclosure Statement on 10/12/10 as an employee of the Sheriff's Department)
Vice Mayor Walton	-	yes	
Councilor Pelham	-	yes	

**BUDGET RESOLUTION AMENDMENT  
FISCAL YEAR 2010-2011**

WHEREAS, at the meeting of the City Council of the City of Hopewell held on October 12, 2010, an amended budget for FY 2010-2011 was introduced in its complete form of which \$933,200 in adjustments are to be made for the FY 2010-2011 budget, and,

WHEREAS, revenue estimates are forecasted to decline;

BE IT, HEREBY, RESOLVED by the City Council of the City of Hopewell:

Sec. 1 The following designated funds and budget appropriations shall be amended to operate City services:

General Fund-011:

PSC Property Taxes .....	\$80,000
Real Estate Taxes decrease 6/15/11 .....	-513,200
Real Estate Taxes .04 increase 6/15/11 .....	256,000
Recovered Costs-CDBG .....	<u>20,000</u>
Total General Fund .....	\$-157,200

Appropriations:

City Council Office .....	-15,000
Tourism Office .....	-20,000
Bldg/Code Enforcement Department.....	-80,000
Public Works-Garage Department .....	-100,000
Benefits Account Savings .....	-57,200
Transfer to Recreation Fund .....	-140,000
Transfer to Social Services Fund .....	-15,000
Transfer to Capital Projects Fund.....	-150,000
Transfer Net I-295 \$ to Capital Projects Fund .....	<u>420,000</u>
Total General Fund .....	\$-157,200

CAPITAL PROJECT Fund-071

Transfer from General Fund.....	\$420,000
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Appropriations:

Transfer to Fund Balance.....	\$420,000
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**REGULAR BUSINESS – TERRI BATTON, CITY TREASURER – PPTRA (PERSONAL PROPERTY TAX RELIEF) PERCENTAGE – 55% FOR QUALIFYING VEHICLES FOR TAX YEAR 2010**

Per Ordinance No. 2005-21, Section 2.(b), City Council must set the percentage of tax relief yearly as part of its annual budget. It is recommended that City Council set the 2010 tax relief percentage at 55% for qualifying vehicles.

Personal property tax relief is provided for certain personal-use vehicles, and qualifying vehicles receive tax relief on the first \$20,000 in value. The State pays a pre-determined lump sum annually to each locality, and Hopewell's lump sum amount is \$1,618,029.64. The percentage of tax relief is calculated annually and changes from year to year as the taxable base for qualifying vehicles changes. The taxable base is based on information downloaded monthly by the Commissioner's Office from the Division of Motor Vehicles. The Commissioner's personal property tax book is generally due by September 1<sup>st</sup> of each year; however, the Commissioner has requested and was granted an extension to November 1, 2010 for the 2010 tax year.

The tax rate for personal property was approved by Council in June 2010 and remains at \$3.50 per 4100 of taxable value. The tax relief percentage does not change the amount of the personal property tax levy for 2010; however, it establishes the portion estimated to be applied as tax relief from the lump sum of \$1,618,029.64 paid annually by the State.

**Motion** to postpone was made by Vice Mayor Walton, seconded by Councilor Bujakowski, and unanimously passed.

**REGULAR BUSINESS – APPROVAL OF ORDINANCE ON FIRST READING AUTHORIZING THE PURCHASE OF 418 & 420 HOPEWELL STREET**

In January 2003, City Council adopted the Downtown Revitalization Plan, and part of the vision for downtown is the redevelopment of the 200 block of East Cawson and Appomattox Streets. City Council determined that it was in the best interest of the City to acquire certain parcels of real estate in the core downtown revitalization area to implement the vision of the downtown plan. At the direction of city Council, the City Administration worked with legal counsel to develop a strategy for the acquisition of certain parcels of land within the downtown to further implement the downtown plan. The \$20 million General Obligation Bonds authorized by City Council for the implementation of project included in the downtown plan included \$3.5 million for property acquisition.

In March 2006, City Council authorized the City Manager to enter into purchase option agreements on several properties in the redevelopment core area. In February 2008, City Council authorized the purchase of the former Food Lion properties, which are now the site of the new Human Services Building. Since that acquisition the City has not purchased any additional properties.

The City plans to purchase property located at 418 Hopewell Street, further identified as tax parcel #800835. The property is located in the southwest corner of Appomattox and Hopewell Streets to the east of the former library/Health Department building. The site consists of 0.13 acres. With the acquisition of that property, the City will own the properties in the block except the office building on the corner of East Cawson and Hopewell Streets.

**Motion** was made by Councilor Stokes, and seconded by Councilor Bujakowski, to approve an ordinance to purchase the property at 418 and 420 Hopewell Street, on first reading, and resolve to authorize the City Manager to execute any and all necessary documentation to complete the purchase of the property. Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes

**REGULAR BUSINESS – RESOLUTIONS – BUSINESS PROFESSIONAL OCCUPATIONAL LICENSE (BPOL) TAX AND MACHINERY & TOOLS (M & T) TAX**

Resolutions supporting the Business Professional Occupational License Tax, pursuant to Section 58.1-3703.1, Code of Virginia, and the Machinery and Tools Tax, pursuant to Section 58.1-3708.1, Code of Virginia, and that they remain intact and untouched by the state level of government.

The City of Hopewell has authority to collect the above referenced BPOL and M&T Taxes. Those taxes are vital for the City of Hopewell and its fiscal budget. The BPOL Tax makes up 4.4%, and the M&T Tax makes up 9.7% of the entire revenues for the City of Hopewell. These two taxes have become the target of negative attention at the state level of government, and it is the City of Hopewell's opinion that the state government does not have firm understanding of a smaller municipal budget or operation. The elimination of the BPOL Tax would force the City of Hopewell to increase real estate taxes up to 14 cents and/or eliminate up to 28 police officer, firefighter, and teacher positions. The elimination of the M&T Tax would force the City to increase real estate taxes up to 31 cents and/or eliminate up to 62 police officer, firefighter, and teacher positions. Hopewell City Council requests that all State Representatives consider all aspects of the BPOL Tax and M & T Tax before any decisions are made and contact all cities, towns, and counties before any changes are made that would affect the BPOL and M&T Taxes and how it would impact the cities, towns, and counties in the Commonwealth of Virginia. A certified copy of the adopted resolution shall be forwarded to all state representatives in the Commonwealth of Virginia.

**Motion** was made by Councilor Pelham, and seconded by Councilor Shornak, to adopt the Business Professional Occupational License (BPOL) Tax Resolution and the Machinery & Tools (M&T) Tax resolutions and certified copies of each shall be forwarded to all state representatives in the Commonwealth of Virginia. Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes

**RESOLUTION**

**A Resolution supporting the Business Professional Occupational License Tax, pursuant to Section 58.1-3703.1, Code of Virginia and that it remain intact and untouched by the state level of government.**

**WHEREAS**, the City of Hopewell has authority to collect Business Professional Occupational License tax pursuant to Section 58.1-3703.1, Code of Virginia; and

**WHEREAS**, the BPOL Tax is a vital tax for the City of Hopewell and its fiscal budget, the BPOL Tax makes up 4.4 percent of the entire revenue for the City of Hopewell; and

**WHEREAS**, the City of Hopewell relies heavily on the revenue of the BPOL Tax for operational costs and school funding; and

**WHEREAS**, the BPOL Tax has become the target of negative attention at the state level of government, and it being the City of Hopewell's opinion that the state government does not have firm understanding of a smaller municipal budget or operation; and

**WHEREAS**, the elimination of the BPOL Tax would force the City of Hopewell to increase real estate taxes up to 14 cents and/or eliminate up to 28 police officer, firefighter, and teacher positions.



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**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Hopewell is requesting that all State Representatives consider all aspects of the BPOL Tax before any decisions are made and contact all cities, towns, and counties before any changes are made that would affect the BPOL Tax and how it would impact the cities, towns, and counties in the Commonwealth of Virginia.

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution shall be forwarded to all state representatives in the Commonwealth of Virginia.

Adopted in the City of Hopewell, Virginia this 12<sup>th</sup> day of October, 2010.

Authorized Signature

Title

**--00000--**

**RESOLUTION**

**A Resolution supporting the Machinery and Tools Tax, pursuant to Section 58.1-3708.1, Code of Virginia and that it remain intact and untouched by the state level of government.**

**WHEREAS**, the City of Hopewell has authority to collect Machinery and Tools Tax pursuant to Section 58.1-3708.1, Code of Virginia; and

**WHEREAS**, the Machinery & Tools Tax is a vital tax for the City of Hopewell and its fiscal budget, the Machinery and Tools Tax makes up 9.7 percent of the entire revenue for the City of Hopewell; and

**WHEREAS**, the City of Hopewell relies heavily on the revenue of the Machinery and Tools Tax for operational costs and school funding; and

**WHEREAS**, the Machinery and Tools Tax has become the target of negative attention at the state level of government, and it being the City of Hopewell's opinion that the state government does not have firm understanding of a smaller municipal budget or operation; and

**WHEREAS**, the elimination of the Machinery and Tools Tax would force the City of Hopewell to increase real estate taxes up to 31 cents and/or eliminate up to 62 police officer, firefighter, and teacher positions.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Hopewell is requesting that all State Representatives consider all aspects of the Machinery and Tools Tax before any decisions are made and contact all cities, towns, and counties before any changes are made that would affect the Machinery and Tools Tax and how it would impact the cities, towns, and counties in the Commonwealth of Virginia.

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution shall be forwarded to all state representatives in the Commonwealth of Virginia.

Adopted in the City of Hopewell, Virginia this 12<sup>th</sup> day of October, 2010.

Authorized Signature

Title

**REGULAR BUSINESS – RESOLUTION – ABANDONED VEHICLES**

A Resolution requesting the General Assembly of the commonwealth of Virginia to amend the Code of Virginia, Section 15.2-904 – authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty.

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The City Council has determined that it is in the interests of the residents of the city of Hopewell that this section be amended to modify the definition of “inoperable motor vehicle.”

**Motion** was made by Councilor Shornak, and seconded by Councilor Pelham, to adopt a resolution regarding Abandoned Vehicles. Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes

**RESOLUTION**

A Resolution requesting the General Assembly of the Commonwealth of Virginia to amend the Code of Virginia, Section 15.2-904 – authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty.

**WHEREAS**, the Code of Virginia § 15.2-904 authorizes localities to restrict the keeping of inoperable motor vehicles, etc., on residential or commercial property; and to provide for the removal of such vehicles; and

**WHEREAS**, the Code of Virginia § 15.2-904 (A) provides that "inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal; and

**WHEREAS**, the City Council has determined that it is in the interests of the residents of the City of Hopewell that this section be amended to modify the definition of “inoperable motor vehicle.”

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HOPEWELL** that the General Assembly of the Commonwealth of Virginia is requested to amend the Code of Virginia, Section 15.2-904 – authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty as follows:

§ 15.2-904. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty.

A. Any locality may, by ordinance, provide that it shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in § [46.2-100](#), which is inoperable. Any locality in addition may, by ordinance, limit the number of inoperable motor vehicles which any person may keep outside of a fully enclosed building or structure, but which are shielded or screened from view by covers. As used in this section, an "inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are **not** displayed ~~neither~~ valid license plates ~~nor~~ **and a** valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

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B. Any locality may, by ordinance, further provide that: (i) the owners of property zoned for residential, commercial or agricultural purposes shall, at such time or times as the locality prescribes, remove therefrom any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure; (ii) such locality through its own agents or employees may remove any such inoperable motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so; (iii) in the event such locality, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers, after having given such reasonable notice, such locality may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle; (iv) the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the locality as taxes are collected; and (v) every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the locality. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, which may be imposed in accordance with the provisions of § [15.2-2209](#).

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

E. As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

**REGULAR BUSINESS – OCTOBER 26, 2010 WORK SESSION/JOINT MEETING WITH HOPEWELL SCHOOL BOARD AT HHS – PRE-DRAFT AGENDA**

The Pre-Draft Agenda for the work session scheduled for October 26, 2010, will begin at 6:30 PM to include: (1) Tour and Update of Hopewell High School Renovation Project. (2) Financial Plan for City Schools presented by Ray Watson, Assistant School Board Superintendent. (3) Needs of Future Capital Improvements at City Schools. (4) Graduation and Drop-Out Rate. (5) Report on 2010 Stimulus Money for Schools. (6) Report on City/Schools Consolidation of Services Plan – Dr. Daley, City Manager and Dr. Odom, Superintendent.

**REGULAR BUSINESS – RESOLUTION – ABANDONED VEHICLES**

The City Council has determined that it is in the interests of the residents of the City of Hopewell that Section 15.2-904 of the Code of Virginia be amended to modify the definition of “inoperable motor vehicle.”

**Motion** was made by Councilor Shornak, and seconded by Councilor Pelham, to adopt a Resolution requesting the General Assembly of the Commonwealth of Virginia to amend the Code of Virginia, Section 15.2-904 – authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty. Upon the roll call, the vote resulted:

Councilor Shornak       -       yes

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Mayor Luman- Bailey	-	yes
Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes

**RESOLUTION**

A Resolution requesting the General Assembly of the Commonwealth of Virginia to amend the Code of Virginia, Section 15.2-904 – authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty.

**WHEREAS**, the Code of Virginia § 15.2-904 authorizes localities to restrict the keeping of inoperable motor vehicles, etc., on residential or commercial property; and to provide for the removal of such vehicles; and

**WHEREAS**, the Code of Virginia § 15.2-904 (A) provides that "inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal; and

**WHEREAS**, the City Council has determined that it is in the interests of the residents of the City of Hopewell that this section be amended to modify the definition of "inoperable motor vehicle."

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HOPEWELL** that the General Assembly of the Commonwealth of Virginia is requested to amend the Code of Virginia, Section 15.2-904 – authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty as follows:

§ 15.2-904. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty.

A. Any locality may, by ordinance, provide that it shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in § [46.2-100](#), which is inoperable. Any locality in addition may, by ordinance, limit the number of inoperable motor vehicles which any person may keep outside of a fully enclosed building or structure, but which are shielded or screened from view by covers. As used in this section, an "inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are **not** displayed ~~neither~~ valid license plates ~~nor~~ **and a** valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

B. Any locality may, by ordinance, further provide that: (i) the owners of property zoned for residential, commercial or agricultural purposes shall, at such time or times as the locality prescribes, remove therefrom any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure; (ii) such locality through its own agents or employees may remove any such inoperable motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so; (iii) in the event such locality, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers,

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after having given such reasonable notice, such locality may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle; (iv) the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the locality as taxes are collected; and (v) every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the locality. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, which may be imposed in accordance with the provisions of § [15.2-2209](#).

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

E. As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located.

**REGULAR BUSINESS – OCTOBER 26, 2010 – WORK SESSION/JOINT MEETING WITH SCHOOL BOARD AT HHS**

The agenda for the Work Session/Joint Meeting with Hopewell School Board includes: (1) Tour and Update of Hopewell High School Renovation Project; (2) Financial Plan for City Schools presented by Ray Watson, Assistant School Board Superintendent; (3) Needs of Future Capital Improvements at City Schools; (4) Graduation and Drop-Out Rate; (5) Report on 2010 Stimulus Money for Schools; and, (6) Report on City/Schools Consolidation of Services Plan – Dr. Daley, City Manager and Dr. Odom, Superintendent.

**REPORT OF CITY ATTORNEY**

City Attorney Lacheney addressed the current drought issue in Central Virginia. Lake Chesdin was created in 1965. There are portions of the original agreement that are not being upheld regarding water from Lake Chesdin being released into the river to flow to Hopewell. Mr. Lacheney requested Council to instruct him to draft a resolution, with copies to the Governor and the Appomattox River Water Authority.

Councilor Stokes asked Council to consider contacting the Governor, the Appomattox River Water Authority, the Virginia American Water Company, etc, regarding the recent emergency declared at Lake Chesdin based on the fact that as a result of the drought residents and users of Lake Chesdin their boats are unable to float. The City Manager should consider hiring an engineer in hydraulics.

**Motion** was made by Councilor Stokes, and seconded by Councilor Pelham, to authorize the City Attorney to prepare a resolution, and to hire necessary experts regarding Lake Chesdin, expressing Hopewell's opposition. Upon the roll call, the vote resulted:

Councilor Shornak	-	yes
Mayor Luman- Bailey	-	yes

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Councilor Bujakowski	-	yes
Councilor Stokes	-	yes
Vice Mayor Walton	-	yes
Councilor Pelham	-	yes

**A RESOLUTION REQUESTING ADHERENCE TO AND ENFORCEMENT OF  
THE DECEMBER 11, 1965 AGREEMENT BETWEEN THE APPOMATTOX  
RIVER WATER AUTHORITY AND THE CITY OF HOPEWELL, VIRGINIA**

**WHEREAS**, in 1950, the General Assembly established the “Virginia Water and Waste Authorities Act”; and

**WHEREAS**, the Appomattox River Water Authority operating under the provisions of the Act, manages and is charged with the protection of the environmental health of the six miles of the river between the George F. Brasfield Dam and the upper limit of tidal influence at the river’s falls, just west of Campbell’s Bridge between Petersburg and Ettrick; and

**WHEREAS**, on December 11, 1965, the Appomattox River Water Authority entered into an agreement with the City of Hopewell whereby the Authority agreed that any dam on the Appomattox River built or operated by it or under its authority shall be operated in accordance with the terms and conditions of said agreement.

**WHEREAS**, under these terms and conditions, “[o]n any calendar day when the average daily water flow of the Appomattox River into the upstream and of the lake created by the dam is 100 million gallons or more, the amount of water discharged into the Appomattox River on the downstream side of the dam during the next succeeding calendar day shall be no less than 100 million gallons,” and “[o]n any calendar day when the average daily flow from the Appomattox River into the lake is less than 100 million gallons, then the water discharged into the Appomattox River on the downstream side of the dam during the next succeeding calendar day shall be no less than such average daily flow on the preceding calendar day up to 100 million gallons.”

**WHEREAS**, the Appomattox River Water Authority has failed to comply with the agreement,

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Hopewell hereby requests that the terms and conditions agreed to by and between the Appomattox River Water Authority and the City of Hopewell in the agreement dated December 11, 1965 be adhered to and enforced to ensure adequate flow is released from its impoundment on the Appomattox River to ensure that water quality standards are maintained.

**This RESOLUTION was adopted by Unanimous vote of the City Council for the City of Hopewell on October 12, 2010.**

**REGULAR BUSINESS – APPOINTMENTS TO BOARDS AND COMMISSIONS**

**Motion** was made by Councilor Pelham, seconded by Councilor Stokes, and unanimously passed to reappoint Mary French Elder, and appoint Jasmine Gore to the ARB for terms extending thru October 31, 2014.

**Motion** was made by Councilor Pelham, seconded by Councilor Stokes, and unanimously passed to appoint Johnny Jones to the Planning Commission for a term extending thru October 31, 2014.

Mayor Luman-Bailey announced the current vacancies: Board of Building Code and Fire Prevention Code Appeals, one vacancy, term thru 10/31/15; NWAC-Ward #1, term thru 10/31/12, Ward #5, term thru 10/31/11; and 1 vacancy on Recreation Commission, term thru 10/31/14.

The City Clerk announced the following term expirations: Board of Building Code and Fire Prevention Code Appeals, two terms to 10/31/15; BZA, one term to 10/31/15; Clean City Commission, three terms to 10/31/14; Disability Services Board, one term to 12/31/13; Dock Commission, one term to 10/31/14; HRHA, two terms to 10/31/14; Industrial Development Authority, two terms to 10/31/14; Library Board two terms to 10/31/14; Neighborhood Watch Advisory Council, Wards #1, 2, 4, 5, 6 and 7, terms to 10/31/12; Planning

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Commission/Wetlands Board, one term to 10/31/14; Recreation Commission, one term to 10/31/14; Regional Wastewater Treatment Commission, two terms to 10/31/12; Senior Citizens Advisory Commission; six terms to 10/31/12; Social Services Advisory Board, two terms to 10/31/14; Transportation Safety Board, two terms to 10/31/14; and Virginia's Gateway Region, one term to 12/31/11. Appointments will be considered at the November 9, 2010 Council meeting.

**REPORTS OF COUNCIL COMMITTEES**

There was brief discussion about City Council's Rules and Procedures regarding the time limit for City Council meetings – three hours from 6:30 PM Closed Session (9:30 PM) or from 7:30 PM (regular meeting) until 10:30 PM.

Vice Mayor Walton wished to provide a report on attending the recent VML Conference in Hampton. The Mayor suggested that the five Council members who attended the VML Conference collaborate and make one joint presentation in November.

The Crater Planning District Commission, MPO, has funding and will implement a regional transit system, including the City of Hopewell, in conjunction with the Petersburg Transit Authority. There will be a three-year demo project and will not required funding from the City of Hopewell for that three-year period.

**REPORTS OF CITY COUNCIL MEMBERS**

Councilor Pelham requested thoughts and prayers to the family of Jack Gould who recently passed away. In addition sympathy was offered to the family of Aaron "Willie" Hayes. (Elton Jamison had a book signing scheduled on October 30, 2010, at 7:00 PM at the Art Worcz; it was not certain if that will take place or be postponed.) Finally, condolences were offered to the family of Connie Williamson.

Councilor Bujakowski reported that all Hopewell public schools have been accredited, and that the Hopewell High School graduation rate is up. There is still more work to be done, and he thanked the School Board.

**ADJOURN**

At 9:44 PM **motion** was made and unanimously passed to adjourn the meeting.

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Christina J. Luman-Bailey  
Mayor

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Ann M. Romano, City Clerk